

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING CHANGES IN PLACE OF USE,
POINTS OF DIVERSION, AND RESCINDING AN ORDER

Pursuant to ORS 540.523, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TEMPORARY TRANSFERS 8250 and 8272 submitted by

KERNS RAINBOW RANCH
45917 QUAIL ROAD
HAINES, OREGON 97833

HELEN FISHER
14758 MUDDY CREEK LANE
HAINES, OREGON 97833.

The first right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by a PORTION of Certificate 74062. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is JANUARY 20, 1868 for Tract 1, and 1868 for Tract 2.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 65.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.51 cubic foot per second, being 0.88 cfs for Tract 1, and 0.63 cfs for Tract 2, if available at the authorized point of diversion: NW¼ SW¼, SECTION 34, T 7 S, R 38 E, WM; BROWN DELONG DITCH - 3567 FEET SOUTH AND 5087 FEET WEST FROM THE NE CORNER, SECTION 34, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

	<u>TRACT 1</u>	<u>TRACT 2</u>
SW¼ NW¼		27.1 ACRES
SE¼ NW¼	37.9 ACRES	
	SECTION 1	
	TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.	

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The second right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by a PORTION of an Order of the Water Resources Director, entered January 23, 1995, at Special Order Volume 49, Page 32, approving TRANSFER 6900. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1880.

The right allows the use of the ROCK CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 60.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.51 cubic foot per second, if available at the original point of diversion: MAXWELL DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized points of diversion are:

MAXWELL DITCH - SE¼ NW¼, SECTION 35, T 7 S, R 37 E, WM;
and,

FISHER DITCH - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 34, T 7 S, R 38 E, WM;
500 FEET NORTH AND 730 FEET WEST FROM THE E $\frac{1}{4}$ CORNER, SECTION 34.

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 23.0 ACRES
SECTION 24

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 37.5 ACRES
SECTION 25

TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

The quantity of water diverted at the new point of diversion, together with the quantity diverted at the old diversion, shall not exceed the quantity of water available at the original point of diversion.

The water user shall maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The third right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by a PORTION of Certificate 4500. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is MAY 1, 1899.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 4.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.11 cubic foot per second, if available at the authorized points of diversion: TONEY and FISHER LONG MILLER DITCHES, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 4.5 ACRES
SECTION 25
TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The applicant proposes to TEMPORARILY change the places of use to:

PRIORITIES JANUARY 20, 1868 and 1868

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 23.0 ACRES
SECTION 24

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 37.5 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 4.5 ACRES
SECTION 25

TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

PRIORITY 1880

SW¼ NW¼ 22.6 ACRES
SE¼ NW¼ 37.9 ACRES

PRIORITY MAY 1, 1899

SW¼ NW¼ 4.5 ACRES
SECTION 1
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

The applicants also propose to change the points of diversion so that the JANUARY 20, 1868 and 1868 rights are diverted through the FISHER DITCH, and the 1880 and May 1, 1899 rights are diverted through the BROWN DELONG DITCH, described above.

Subsequent to the approval of Temporary Transfer 8250, the applicant found the center pivot irrigation system, in Sections 24 and 25, T 7 S, R 38 E, WM, had been moved about 400 feet south. The applicant has requested Temporary Transfer 8250 be modified to include the correct lands. The applicant also filed a new application, Temporary Transfer 8272, to include the water right not involved in Temporary Transfer 8250. The order approving Temporary Transfer 8250 should be rescinded and this order approved in its stead.

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The changes are temporary. The changes shall be effective upon issuance of this order.
2. The former places of use shall not be irrigated as part of this water right during the 1999 irrigation season.
3. The uses shall revert to the authorized places of use at the end of the 1999 irrigation season.

